

**Nolensville Planning Commission
December 11, 2007, 7:00 p.m.
Nolensville Elementary School**

Members in attendance were Chair Rick Owens, Members Jimmy Alexander, Andy Grosson, Bob Haines, Matt Happel, Mayor Beth Lothers, Doug Radley, Willis Wells and Frank Wilson.

Staff present was Town Planner Henry Laird and City Recorder Cindy Lancaster. Ten (10) citizens were also present.

I. Call Meeting to Order

The meeting was called to order at 7:04 by Chair Rick Owens.

II. Pledge of Allegiance

The pledge of allegiance was led by Chair Rick Owens.

III. Approval of Minutes

Commissioner Wilson made a motion to approve minutes from November 13, 2007, and Commissioner Haines seconded the motion. The minutes were approved unanimously.

IV. Announcements

Chair Owens went over the rules for the meeting and asked speakers to state their name and address for the record. Mayor Lothers introduced the new member of the Planning Commission, Mr. Doug Radley. She stated Mr. Radley has lived in Nolensville since 1983. He has worked for the Corp of Engineers, mainly in the Planning Department. He formerly worked for TEMA and has a BS in political science with an emphasis in planning from MTSU and a master of science in planning from the University of Tennessee. He also is a member of APA and the American Institute of Certified Planners.

V. Citizen Comments

There were no comments by citizens.

VI. New Business

Subdivision Review:

Bent Creek Final Plat, Phase 4, Section 2

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Mr. Eric McNeely, of Cates and Kottas Development, noted he was present to answer any questions from the commission.

Commissioner Wells made a motion to approve this Phase, and Commissioner Haines seconded the motion.

Commissioner Alexander stated that he noted the plat has shown several critical lots and he appreciated that. He confirmed that that these are the lots that staff went over with him, and Mr. McNeely agreed.

Mayor Lothers asked if all staff recommendations were made, and Mr. Laird stated they were all made.

Commissioner Haines noted that he had questions, although Mr. Laird has answered those questions via email. The questions were in regards to addresses. Mr. McNeely noted that the phase line for this section was to have frontage on Lodge Hall Road. Commissioner Haines questioned the critical lots. Mr. McNeely noted that the builder will submit individual site plans to the Town Engineer, Don Swartz. Commissioner Grosson noted that the address on Aunt Nanny's Place should be "5033". Mr. McNeely stated he would have that changed.

Chair Owens, referring to Tom Allen's memo, noted that Lots 4227, 4228, 4229, 4231 & 4232, 4202 & 4201 are adjacent to the pond and may require finished floor elevations for these lots. Mr. McNeely clarified the elevation. Mr. Laird noted that Tom Allen has reviewed and he is in agreement with the plat as submitted.

Mr. Laird stated the bond is to be set at \$ 167,915.

Mayor Lothers asked if they were prepared for the trails and the mulch issue. She noted that residents in Bent Creek are concerned. Mr. McNeely stated that he would be getting with Bill Kottas, regarding the greenway versus the mulch. He noted that he can only make a recommendation and that Mr. Kottas makes the final decision. There would be three different trails provided within the subdivision. There are also sidewalks to Sam Donald Road

Jimmy Reeves, 3385 Redmond Hill, stated there are sticks in there as long as his arm. In some places, the grass has grown over the mulch. Mr. McNeely stated that they have chipped up trails and mulch at playgrounds. He stated a neat appearance was desired, but there are three different types of trails, one a nature trail.

Mayor Lothers asked about the difference in trail and playground mulch. Mr. McNeely stated the playground is softer. Mayor Lothers asked if the playground could be used all over, and she asked Mr. Laird what kind of leeway is there to request the other mulch. Mr. Laird stated he had not investigated, but feels the town has the right to ask for changes when new phases are being presented in this area.

Mr. McNeely stated that when the final P.U.D. was approved they brought in a trail plan and told Nolensville that we would bring it in. He stated he would tell his partners to address these concerns. Commissioner Wells requested that Mr. McNeely review and correct the issue.

Mayor Lothers asked Commissioner Alexander if he had any experience regarding this. Commissioner Alexander stated that he had reviewed PUD plans in Nashville, but never got as specific as mulch.

Mr. McNeely noted that there was a homeowners association that this can be brought before for review. Commissioner Alexander asked if he could report back to the Planning Commission what has been done to correct the large limbs issue. Mayor Lothers said that she walked through Bent Creek and noted that there was a void in an area that had not been completed. Mr. McNeely stated there were loose ends that are being worked out in Bent Creek, and this particular issue is being reviewed and worked on.

The vote was then taken and this passed with a \$167,915 performance bond unanimously.

Zoning Amendments:

Consider revisions to the OI district regarding churches and animal boarding facilities as permitted uses.

This was a request to consider revisions to the OI district to allow religious institutions as permitted uses and animal boarding facilities as permitted with conditions.

Mr. Laird noted that there have been some requests made in the OI district, although with specific uses in Johnson Industrial Park. There are certain issues that are not permitted. One is a church, and this is classified as a religious facility. Another is a doggy kennel, which boards dogs. The way the present ordinance is written states that if it is not specifically mentioned, it is not allowed. Mr. Laird recommended adding a religious use to permitted uses. Churches are allowed in all other districts.

Commissioner Wilson made a motion to approve this request, and Commissioner Haines seconded the motion. Commissioner Wilson noted that there is already a church in the OI district, so he has no problem with it.

Commissioner Radley stated that over time the congregation could complain that the industrial would be a nuisance. He said that on a temporary basis he did not have a problem, although as a permanent basis, he disagreed. Commission Willis noted that in this zone it reads that it assumes that we have listed every possible use. He asked if this could be changed.

Chair Owens stated he thought the wording allows the Planning Commission to review prior to a use being used. Commissioner Wilson said this section has been amended very rarely.

Commissioner Happel made a motion to put under religious institutions as permitted with conditions, and Commissioner Haines seconded the motion. Commissioner Radley suggested that the condition be for a temporary time until a permanent facility is constructed. Mayor Lothers noted that within the area we have to allow a place for adult entertainment in the OI district. Laird noted that we already allow religious institutions in other zones with conditions. He stated the conditions as being: minimum lot size, specific 50 people in sanctuary, buffer should be on all common property lines, housing shall not be permitted on the site nor are schools to be permitted on the site.

Commissioner Wilson said that a religious institution should have the same right as an adult entertainment. Commissioner Radley stated that he agreed, but that may bring on conflict. Chair Owens stated it appears that we are trying to prevent something that there is only a possibility may happen. He stated he did not feel we should place conditions. Logically it should be allowed there without conditions. Commissioner Alexander stated he did not think a church getting started in an OI area would most likely move away from there. He stated he did not see a church being in an OI long term, and would be a temporary use for a church. Mayor Lothers noted that light industrial is used in that area but not heavy.

Commissioner Haines stated two things come to mind. One is, parking and the other is, people complaining about something moving in. Ask the farmers. People move in by a farm and inevitably complain about the smell knowing they moved in beside a farm. People are always going to complain. I don't think it should be a permanent destination.

Mayor Lothers stated she was approached about a sporting establishment in that area. She asked Mr. Laird about parking. He stated it depended on the size. It could be a problem if the church grew. Regardless, they would have to submit a site plan to the town to show the parking area. He stated that churches are permitted with conditions in most of the town's zoning. As far as temporary use, it would be hard to control that. He suggested either allowing it or not allowing it. The other areas are more restrictive.

Chair Owens stated the usual pattern of churches is to find a temporary meeting place. He stated he felt that the town would be making a condition that would be unnecessary. There is a wide range of businesses there, and I don't see an issue there. Commissioner Wells stated he felt that Commissioner Haines made a good point. He asked if there was something already on Johnson Industrial, i.e., the handicap establishment. If it is permanent, then they could branch out and build a school.

Mr. Laird stated education or child care is not listed in OI. Commissioner Wells asked do we have knowledge of them wanting it for permanent or temporary. Mr. Laird stated we did not get into that. Commissioner Alexander stated he could not see a church wanting

to be permanently in that area. Commissioner Wilson stated he thought that what is happening is a church is meeting at the Recreational Center, there is one meeting in a warehouse and stated he agreed with Commissioner Alexander that this would only be a temporary location. He noted that the church meeting in the Recreational Center owns 30 acres on Nolensville Road, and it is going to be temporary use. He stated he did not anticipate the church settling in the industrial park.

The conditions on the amendment were discussed extensively.

Charles Lawson, 2531 York Road, stated most churches move because they outgrow their facility. If this church doesn't grow, are you going to make them move out? He stated he felt the church should be approved with no conditions.

Commissioner Happel stated the current conditions that are already in place should go with this use and then make a timeframe. Chair Owens said he did not understand putting a condition. Anyone could make a complaint. Commissioner Radley said that he never intended to penalize the church, but protect the church. With zoning, you try to have compatible uses.

Mayor Lothers stated it was her understanding that if a church moves into OI zoning, that you would be eliminating adult entertainment.

Commissioner Alexander suggested that this be deferred. If we allow this, it may eliminate one of the zoning.

Gardner Jones, 700 Cromwell Court, stated he was a minister. He stated he attends a church that met in a church a number of years. Most churches start out in small numbers. Their intent is for it to be a temporary position. He said step back and look. We have a population of 3,000 people, and he did not think we are going to have a mega-church in Nolensville. He stated he thought it is a good look at this, but did not think you should put a timeframe on this. Maybe talk to the pastor to find out their ultimate goals. Take these requests on a case-by-case basis.

Commission Willis suggested that we deal with this one congregation on a temporary basis versus changing this entire zoning. Mr. Laird stated staff is not authorized to allow this when the ordinance does not allow it.

Mayor Lothers suggested that we should wait until legal counsel arrived at the meeting so that we could confer with him on this issue.

Commissioner Happel withdrew his amendment, and Commissioner Haines withdrew his second. Commissioner Happel made a motion to defer this until February. It did not receive a second.

Tommy Dugger, 2260 Rolling Hills Drive, stated there are other zonings that are allowed with conditions. I don't see why this cannot be approved with conditions. If it has

conditions it must be presented to the Board of Zoning Appeals for approval and to Planning Commission for site plan approval.

Commissioner Wilson made a motion to withdraw his original motion, and Commissioner Haines withdrew his second.

Mayor Lothers made a motion to table this until the town attorney was present, and Commissioner Happel seconded.

Alderman Dugger noted that legal counsel is on Sunset Road on his way to this meeting.

The meeting was unanimously recessed at 8:10 p.m. The meeting was reconvened 8:17 p.m. Town Attorney Bob Notestine entered the meeting.

Mayor Lothers updated Town Attorney Notestine about this issue. Mr. Notestine noted that adult entertainment must be allowed within a zoning. Commissioner Alexander noted that his concern was that if we allowed a church, it would eliminate adult entertainment use. Mr. Notestine stated that a religious institution is permitted in almost every zoning. Mr. Laird noted that in Johnson Industrial that it may be eliminated due to a requirement not being allowed within 1,000 feet of a school, although it can be located in Haley Industrial Park.

Commissioner Wilson asked if there was anything in the industrial park that is legal to have an assembly now. Mayor Lothers stated the international building code would need to be reviewed to answer this question.

Commissioner Alexander made a motion to allow religious institution as a permitted use, and Commissioner Wells seconded the motion. This was approved by a majority. Commissioner Radley voted against the motion.

Commissioner Haines made a motion to allow the boarding facility permitted with conditions, and Chair Owens seconded. Mr. Notestine said it would be the same as before in regards to making sure the international building code is abided by.

Mr. Laird noted that this would be strictly boarding, the same as a veterinarian's office. The kennel definition gets into the breeding of dogs. He read the "kennel" definition from the zoning ordinance. Mayor Lothers stated that she read it as being contradictory. Mr. Laird stated it could be clarified. Mr. Notestine noted that something can be placed in the ordinance that kennels are not allowed. Mr. Laird suggested (e) be re-written to state kennels for training or breeding are not allowed.

Mayor Lothers made a motion to amend (e) kennels are not allowed for training or breeding under these conditions, and Chair Owens seconded. The vote was then taken on the amendment, and this was approved unanimously.

The vote was then taken on the motion as amended. This passed unanimously.

Consider revisions to Article 8 Performance Standards lighting standards in the CR zoning district; revising wall sign standards in the CR district.

Commissioner Alexander made a motion to approve Mr. Laird's recommended revisions in Article 8, performance standards lighting, standards in the CR zoning district; revising wall sign standards in the CR district, and Mayor Lothers seconded the motion.

Commissioner Haines noted that we need to look at the size of the building to be apportioned to the length of the building. If we could come up with a ratio that would be a good thing.

Mr. Laird stated that we are mainly concerned with the development in the CR zoning. Two issues are: (1) the height of lighting pole and (2) wall signs for retail buildings specifically in the CR. A 50,000 square foot building is not allowed in the CS zone. The idea is to allow larger letters. Currently, fifty (50) square feet is the limit per one wall sign. We have run into a problem with something that is before the Planning Commission in January.

The vote was taken and passed unanimously.

Old Business:

Mayor Lothers gave a report from last BOMA meeting:

- (1) Public hearing on national flood insurance
- (2) Second Reading on ordinance 07-10 to rezone Cameron property passed
- (3) Planning Commission may be interested in the CIP that was approved. It is important as this commission so please review this. The mayor asked the Town Recorder to get a copy of this to the Planning Commission.

Other Business:

Monthly Bond Report:

This was updated, and Mr. Laird had distributed a sheet indicating reductions.

Bent Creek Phase 2, Section 1 & 5, reduce to maintenance. Mr. Laird and Mr. Swartz agreed. Bent Creek made initial request section 2A/2B/3A/3B to be released and the sub-regulations require two years. We met with them and they withdrew their request.

Mr. Notestine noted that Winterset Woods expires next month. He asked if staff made contact. Henry said yes, and that needs to be corrected.

Commissioner Wilson stated Bent Creek withdrew their request. All these are the roads into that subdivision that are heavily used. When you start taking bonds off of the main road you are asking for trouble. He stated we need to keep an eye on this.

Chair Owens made a motion to approve the bond report, and Commissioner Happel seconded. This was unanimously approved.

Other:

Mayor Lothers stated that someone had asked her to clarify conflicts of interest. The Planning Commission has by-laws. She read the by-law section in regards to conflict of interest. She noted that she wanted to clarify that a member could step down and speak as a citizen, but not vote.

Mayor Lothers also noted that someone may come to advise on the difference between reservation and dedication. Mr. Laird noted the zoning ordinance is clear on the reservation. He noted that any reservation made on private property that the difference could be that if the town wanted to acquire the right of way for dedication purposes for projects that the Town would participate in financially. Mr. Notestine stated that a reservation on a plat is for future use. With a dedication that means that someone has given the property to the town. There is a very important distinction.

Mr. Laird asked shouldn't we show a reservation. Commissioner Alexander stated you can reserve or dedicate either one. Any kind of change to the property should involve a plat.

Mr. Notestine noted that some people say it is dedicated when the plat is recorded. This is argued. I think a good policy would be to have it on a plat. When there is a dedication – that means that the town has acquired that property. I think that a reservation would be better. Mayor Lothers noted that this is confusing. She recently went to a seminar and if you ever get federal funding you must follow certain criteria. She noted that we will get to the bottom of this and we want to do what is right. Mr. Notestine noted that whatever it is the plat should reflect that.

Commissioner Willis noted that it is a five-foot strip. How can you require a dedication?

Commissioner Alexander stated the state would use that when the road is widened. Mr. Notestine noted that Mr. Wells' issue needs to be reviewed and addressed.

Commissioner Willis stated that you did not get one from the service station, the bank or any of those.

Commissioner Alexander stated he thought we got one from the bank and Electronic Express. Commissioner Wells asked why we should worry about TDOT. Commissioner Alexander stated he felt we are obligated if we know they are going to widen Nolensville Road. Mr. Notestine said that it is more of a "buyer be aware" situation – for people down the road.

Commissioner Wells inquired as to the utility easement. There was extensive discussion. Mayor Lothers said that she would ask a TDOT representative to come to a Planning Commission meeting to discuss.

Mayor Lothers stated that today she was asked to attend a special seminar by County Mayor Rogers Anderson.

The meeting adjourned at 9:00 p.m.

IX. Adjournment

Respectfully submitted,

Approved,

Cindy Lancaster
Town Recorder
Secretary

Matt Happel
Planning Commission